

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

9:00 AM

2:00-00000

Chapter

- #1.00** Hearings in Judge Bason's courtroom (1545) are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. ZoomGov appearances are free.

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 265 6404

Password: 011747

Meeting URL: <https://cacb.zoomgov.com/j/1602656404>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called.

CHAPTER 13: Persons needing to contact the Chapter 13 Trustee's attorney, either prior to the hearing or during a recess, can call Kaleen Murphy, Esq. at (213) 996-4433.

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

2:17-25605 Rebecca Maria Miramontes

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

WILMINGTON SAVINGS FUND SOCIETY, FSB
vs
DEBTOR

Docket 54

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 56 & 57).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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| Party Information |
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT... Rebecca Maria Miramontes

Chapter 13

Debtor(s):

Rebecca Maria Miramontes

Represented By
William G Cort

Movant(s):

Wilmington Savings Fund Society,

Represented By
Dane W Exnowski

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

2:20-17800 Ana Maria Ahmad

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 58

***** VACATED *** REASON: APO**

Tentative Ruling:

- NONE LISTED -

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| Party Information |
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Debtor(s):

Ana Maria Ahmad

Represented By
Rabin J Pournazarian

Movant(s):

Deutsche Bank National Trust

Represented By
Kirsten Martinez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

2:20-20545 Hooman Shafazand

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 50

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see Debtor's response, dkt. 54, and Movant's reply, dkt. 55).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT... Hooman Shafazand

Chapter 13

Debtor(s):

Hooman Shafazand

Represented By
Nima S Vokshori

Movant(s):

U.S. Bank National Association as

Represented By
Diane Weifenbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

2:21-15045 Edgar Novio Ylagan

Chapter 7

#4.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 14

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT... Edgar Novio Ylagan

Chapter 7

appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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| Party Information |
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Debtor(s):

Edgar Novio Ylagan

Represented By
Sevan Gorginian

Movant(s):

Deutsche Bank National Trust

Represented By
Cassandra J Richey

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

2:20-13970 Carlos G. Moreno

Chapter 13

#5.00 Hrg re: Motion for relief from stay [PP]

LOGIX FEDERAL CREDIT UNION
vs
DEBTOR

Docket 64

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT... Carlos G. Moreno

Chapter 13

appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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| Party Information |
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Debtor(s):

Carlos G. Moreno

Represented By
David Samuel Shevitz

Movant(s):

Logix Federal Credit Union

Represented By
Karel G Rocha

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

2:21-14452 Monique Y. Griswold

Chapter 7

#6.00 Hrg re: Motion for relief from stay [PP]

BANK OF THE WEST
vs
DEBTOR

Docket 15

Tentative Ruling:

Appearances are not required.

Grant as set forth below, in view of Debtor's notice of non-opposition (dkt. 18).

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT... Monique Y. Griswold

Chapter 7

appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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| Party Information |
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Debtor(s):

Monique Y. Griswold

Represented By
Michael Salanick

Movant(s):

BANK OF THE WEST

Represented By
Mary Ellmann Tang

Trustee(s):

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

2:20-14860 Glen Yamil Valladares

Chapter 13

#7.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 8/3/21

BANK OF AMERICA, NA
vs
DEBTOR

Docket 50

***** VACATED *** REASON: APO**

Tentative Ruling:

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| Party Information |
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Debtor(s):

Glen Yamil Valladares

Represented By
William J Smyth
Stephen S Smyth

Movant(s):

Bank of America, N.A.

Represented By
Robert P Zahradka
Diane Tran
Chad L Butler

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

2:20-18681 Leticia Juarez

Chapter 13

#8.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/6/21,7/20/21

CREDIT UNION OF SOUTHERN CALIFORNIA
vs
DEBTOR

Docket 33

Tentative Ruling:

Tenatative Ruling for 9/14/21:

Appearances required.

At the hearing on 7/20/21 this Court was persuaded to continue the matter to allow Debtor an opportunity to complete a trial loan modification. There is no tentative ruling, but the parties should be prepared to address (a) whether Debtor has completed that trial loan modification and (b) whether the parties are prepared to agree to a final loan modification.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT... Leticia Juarez

Chapter 13

Tentative Ruling for 7/20/21:

Appearances required.

At the hearing on 7/6/21 this Court was persuaded to continue the matter so that Debtor and Movant could address the following issues. There is no tentative ruling, but the parties should be prepared to address (a) whether there has been a loan modification or other resolution of the defaults alleged in the motion papers and/or (b) whether they will agree to the terms of an adequate protection order. See Order Continuing Hearing (dkt. 37).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 7/6/21:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT... Leticia Juarez

Chapter 13

present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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| Party Information |
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Debtor(s):

Leticia Juarez

Represented By
Jonathan Hidalgo - SUSPENDED -

Movant(s):

Credit Union of Southern California

Represented By
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

2:20-20828 Francisco Joaquin Lopez Martinez

Chapter 13

#9.00 Cont'd hrg re: Motion for relief from stay [PP]
fr. 8/3/21

VW CREDIT INC
vs
DEBTOR

Docket 32

***** VACATED *** REASON: Voluntary dismissal of motion filed on
08/06/21 (dkt 35)**

Tentative Ruling:

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| Party Information |
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Debtor(s):

Francisco Joaquin Lopez Martinez

Represented By
D Justin Harelik

Movant(s):

VW Credit, Inc., dba Ducati

Represented By
Austin P Nagel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

2:21-11286 Lee Christopher Rogers

Chapter 7

#10.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 6/15/21

U.S. Bank National Association
vs
DEBTOR

Docket 20

Tentative Ruling:

Appearances required.

This matter was continued to this date pursuant to a stipulation/order between Movant and the Chapter 7 Trustee ("Trustee") to allow time for the Trustee to try to market and sell the property. Dkt. 23, 25-27. There is no tentative ruling, but the parties should be prepared to provide an update on the status of the Trustee's sale efforts.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT... Lee Christopher Rogers

Chapter 7

Debtor(s):

Lee Christopher Rogers

Represented By
R Grace Rodriguez

Movant(s):

U.S. Bank National Association

Represented By
Dane W Exnowski

Trustee(s):

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

2:21-11626 Raquel Espericueta

Chapter 13

#11.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 8/3/21

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 36

***** VACATED *** REASON: APO**

Tentative Ruling:

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| Party Information |
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Debtor(s):

Raquel Espericueta

Represented By
Donald E Iwuchuku

Movant(s):

Wells Fargo Bank, N.A., as trustee,

Represented By
Robert P Zahradka
Chad L Butler

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

2:21-15075 Seung Lee

Chapter 7

#12.00 **[CASE DISMISSED ON 8/20/21]**

Cont'd hrg re: Motion for relief from stay [UD]
fr. 8/31/21

WREN LA JV, LLC
vs
DEBTOR

Docket 8

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, the tentative ruling is to grant relief from the automatic stay as follows.

Note regarding mootness: Judge Bason's standard tentative ruling is as follows. For three reasons the above tentative ruling that there *is no stay* does not moot requests for relief from whatever stay might apply. First, such *alternative* rulings are appropriate because (i) the very nature of *tentative* rulings is that this Court could be persuaded to depart from any one of them, and (ii) a *final* ruling on any one issue could be reversed on appeal. Second, even if there is currently no stay, that could change - e.g., if there is no stay because of dismissal of this bankruptcy case, such dismissal could be vacated and that might reimpose the stay even if there is a lack of adequate

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT... Seung Lee

Chapter 7

protection, or other grounds why the stay should not apply, and therefore the movant will suffer cognizable harm unless the issues are addressed now (Judge Bason regularly vacates dismissals based on stipulations or other good cause). Third, if the motion includes any request for relief as to *past* acts (annulment) or *future* cases (*in rem* relief), those things are still at issue even if there is no *current* automatic stay. See *In re Aheong*, 276 B.R. 233 (9th Cir. BAP 2002). For all of these reasons, the tentative ruling is that it is appropriate to address the following issues.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases

Grant the following relief pursuant to the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017):

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice. Accordingly, this Court makes no finding that Debtor was involved in the scheme.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT... Seung Lee

Chapter 7

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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| Party Information |
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Debtor(s):

Seung Lee

Pro Se

Movant(s):

WREN LA JV, LLC

Represented By
Agop Gary Arakelian

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

2:21-12832 Alexander Zerkovsky

Chapter 7

#13.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 6/29/21, 8/17/21

KATHLEEN AND PATRICK STONE
vs
DEBTOR

Docket 15

Tentative Ruling:

Tentative Ruling for 9/14/21:

Please see the tentative ruling for the Order to Show Cause (Calendar No. 14, 9/14/21 at 10:00 a.m.).

Tentative Ruling for 8/17/21:

Appearances required.

At the hearing on 6/29/21 this Court granted the motion but deferred entering an order to allow time for the parties to participate in mandatory mediation. On 8/16/21, this Court received an *ex parte* communication from the mediator that Debtor did not meet the mediator's deadlines for submitting a mediation brief. There is no tentative ruling, but the parties should be prepared to provide an update on the status of mediation.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT... Alexander Zerkovsky

Chapter 7

that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 6/29/21:
Appearances are not required.

Grant as set forth below.

Proposed order: This Court will prepare an order after the hearing date.

Key documents reviewed (in addition to motion papers): Debtor's opposition (dkt. 17), no reply is on file

Analysis:

(1) Notice

Debtor highlights that the motion papers were not served until 6/9/21 (20 days before the hearing) (see dkt. 15 and LBR 9013-1(d)(2) requiring 21 days' notice). But the Posted Procedures of Judge Bason's (available at www.cacb.uscourts.gov) permit parties to file this type of motion on shortened time - 14 days' notice - without prior approval.

True, Movants failed to modify the local form of notice to state the foregoing, and to note that the deadline for any opposition is five calendar days before the hearing date. But Debtor has not alleged or provided evidence of any prejudice, so the tentative ruling is to overrule Debtor's objection to Movants' notice.

(2) The automatic stay does not apply

The tentative ruling is to grant the motion under 11 U.S.C. 362(c)(3) and (j): there is no automatic stay because (a) Debtor's prior case (#2:20-bk-15695-NB) was dismissed (on 10/26/20) within one year before this case was filed (on 4/7/21), (b) that dismissal was not under 11 U.S.C. 707(b), and (c) no finding of good faith was timely sought and obtained. The automatic stay has terminated both as to Debtor *in personam* and as to property of

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT... Alexander Zerkovsky

Chapter 7

Debtor. See *In re Reswick*, 446 B.R. 362 (9th Cir. BAP 2011); *In re Hernandez*, case no. 2:11-bk-53730-NB, docket #40 (Memorandum Decision).

In the alternative and in addition, the tentative ruling is that the automatic stay does not apply pursuant to this Court's order issued in Debtor's prior case, which provides "[t]his order is binding and effective in any bankruptcy case commenced by or against the Debtor for a period of 180 days, so that no further automatic stay shall arise in that case as to the nonbankruptcy action." *Id.* at p.2, para. "(9)". Because Debtor commenced this case on 4/7/21, which is within the 180-day period contemplated by that Order, no automatic stay applies in this case as against Movants.

(3) Alternative relief: if the automatic stay were to apply for some reason (which it does not), there is cause to grant relief

In the alternative and in addition, the tentative ruling is to grant relief from the automatic stay as follows.

Note regarding mootness: Judge Bason's standard tentative ruling is as follows. For three reasons the above tentative ruling that there *is no stay* does not moot requests for relief from whatever stay might apply. First, such *alternative* rulings are appropriate because (i) the very nature of *tentative* rulings is that this Court could be persuaded to depart from any one of them, and (ii) a *final* ruling on any one issue could be reversed on appeal. Second, even if there is currently no stay, that could change - e.g., if there is no stay because of dismissal of this bankruptcy case, such dismissal could be vacated and that might reimpose the stay even if there is a lack of adequate protection, or other grounds why the stay should not apply, and therefore the movant will suffer cognizable harm unless the issues are addressed now (Judge Bason regularly vacates dismissals based on stipulations or other good cause). Third, if the motion includes any request for relief as to *past* acts (annulment) or *future* cases (*in rem* relief), those things are still at issue even if there is no *current* automatic stay. See *In re Aheong*, 276 B.R. 233 (9th Cir. BAP 2002). For all of these reasons, the tentative ruling is that it is appropriate to address the following issues.

On the merits, the tentative ruling is to terminate the automatic stay under 11 U.S.C. 362(d)(1). Debtor argues that Movants do not specify what

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT...

Alexander Zerkovsky

Chapter 7

"cause" they assert for relief; but Movants implicitly rely on the same cause that persuaded this Court to grant them relief in Debtor's prior bankruptcy case. See R/S Motion (Case No. 2:20-bk-15695-NB, dkt. 39) and R/S Order (dkt. 41). In that case Movants established that Debtor filed that bankruptcy case without notice to them, and then attempted to use that bankruptcy case to render void the \$35,000 arbitration award against Debtor in favor of Movants. That conduct was and is cause to grant Movants the relief they seek.

In addition, this Court's records show that Debtor's prior bankruptcy case was dismissed for infeasibility. Debtor's history of having used an infeasible bankruptcy case to frustrate Movants' attempts to collect their arbitration award is alternative and additional cause for relief from any automatic stay in this case (if any such stay existed, which it does not).

(4) Relief notwithstanding future bankruptcy cases.

The tentative ruling is that Debtor's conduct described above establishes that the filing of this bankruptcy case was part of a scheme to hinder, delay, or defraud Movants and that it is appropriate to grant relief that will be effective notwithstanding any future bankruptcy cases under the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017):

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT... Alexander Zerkovsky

Chapter 7

(5) Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)
(3).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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| Party Information |
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Debtor(s):

Alexander Zerkovsky

Represented By
Khachik Akhkashian

Movant(s):

Kathleen and Patrick Stone

Pro Se

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

2:21-12832 Alexander Zerkovsky

Chapter 7

#14.00 Order to show cause why this case should not be dismissed without any discharge and with a permanent bar to being a debtor in any future bankruptcy case

Docket 25

Tentative Ruling:

Appearances required.

(1) Current issues

(a) Order to show cause (dkt. 25, "OSC"), Declarations of Khachik Akhkashian and Debtor (dkt. 30), response of Kathleen and Patrick Stones' ("Creditors") (dkt. 31)

There is no tentative ruling. Debtor should be prepared to address the arguments set forth in the Stones' response.

(b) Motion of Stones for relief from automatic stay ("R/S Motion," dkt. 15); Debtor's opposition (dkt. 17); Order (the "R/S Order," dkt. 26)

The tentative ruling is that the R/S Order has already resolved all issues raised by the R/S Motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT... **Alexander Zerkovsky** **Chapter 7**
the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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| Party Information |
|--------------------------|

Debtor(s):

Alexander Zerkovsky

Represented By
Khachik Akhkashian

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

2:21-16798 Marina Elsa Chavez

Chapter 13

#15.00 Hrg re: Motion in Individual Case for Order Imposing
a Stay or Continuing the Automatic Stay as the Court
Deems Appropriate

Docket 9

Tentative Ruling:

Conditionally grant in part and deny in part as set forth below. Appearances required. Any opposition may be presented or supplemented at the hearing due to Debtor's failure to follow the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) providing for prior filing of any opposition papers. Debtor's counsel is cautioned that failure to comply with this Court's Procedures in future may result in adverse consequences.

Analysis

This Court has reviewed the motion papers (dkt. 9), the opposition papers (dkt. 11) filed by Wells Fargo Bank, N.A. ("Creditor") and other filed documents and records in this case and Debtor's prior bankruptcy case (Case No. 2:19-bk-14148-NB) (the "Prior Case").

The tentative ruling is that (1) the burden is on Debtor to show good faith in filing the current bankruptcy petition; (2) there is a presumption that Debtor did not file this case in good faith, which can only be rebutted by clear and convincing evidence; (3) on the present record, Debtor has not adequately rebutted that presumption; and (4) the only method by which this Court anticipates that Debtor can adequately rebut that presumption is if Debtor were to agree to (a) an adequate protection order ("APO") and (b) a deadline to file a motion to authorize the sale or refinance of the subject property (e.g., 120 days from this hearing), so that, despite delaying Movant's exercise of its remedies since her first bankruptcy petition on 8/12/13 through the present, and accumulating estimated prepetition arrears of \$71,719.25 (dkt. 11, p.3:22-23), there is some assurance that this bankruptcy case will result in a timely cure of arrears, and an ability to pay the full debt to Movant. These issues are further addressed below.

(1) The automatic stay will terminate 30 days after the petition date

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT... Marina Elsa Chavez

Chapter 13

unless this Court enters an order extending it

On 4/11/19, Debtor filed a voluntary chapter 13 petition commencing the Prior Case. On 4/15/19, Debtor filed a motion seeking an order continuing the automatic stay pursuant to 11 U.S.C. 362(c)(3) (Prior Case, dkt. 8), which Creditor opposed. *Id.*, dkt. 10. Following a hearing on the motion, this Court entered an order granting the motion (*Id.*, dkt. 22), subject to Debtor staying current on an adequate protection order in favor of Creditor. *Id.* at PDF pp. 3-5. The Prior Case was dismissed on 1/26/21 based on Debtor's failure to stay current on Plan payments. *Id.*, dkt. 41, 46.

On 8/27/21 Debtor filed this chapter 13 case. Therefore, the automatic stay will terminate on 9/26/21 if this Court does not extend the stay pursuant to 11 U.S.C. 362(c)(3):

(3) if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b) –

(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;

(B) on motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed. [Emphasis added.]

The following principles guide this Court's application of 11 U.S.C. 362(c) to this case. First, there is authority that if the automatic stay is not continued beyond 30 days then it terminates in all aspects, *i.e.*, not only as to the debtor individually but as to all parties and the bankruptcy estate. *In re Reswick*, 446 B.R. 362 (9th Cir. BAP 2011); *In re Hernandez*, case no. 2:11-

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT... Marina Elsa Chavez

Chapter 13

bk-53730-NB, docket #40 (Memorandum Decision).

Second, there is authority that "good faith" is a factual inquiry, although to the extent the statute defines what is good faith the interpretation of the statute is a legal question. See *generally, e.g., In re Ellsworth*, 455 B.R. 904, 914, 917 (9th Cir. BAP 2011) (holding that good and bad faith in other contexts are factual inquiries). Cf. *U.S. Bank v. Village at Lakeridge, LLC*, 138 S.Ct. 960 (2018) (analyzing what issues are factual and what are legal).

Third, the factual nature of "good faith" does not necessarily mean that live testimony is required. See, e.g., *In re Nicholson*, 435 B.R. 622, 635-36 (9th Cir. BAP 2010). In fact, the tentative ruling is that, just like hearings on whether to grant relief from the automatic stay, any hearing on whether to continue the automatic stay is intended to be an expedited, summary proceeding, not a full-blown trial. See 11 U.S.C. 362(c)(3)(B) (30-day limit to conclude hearing) and compare 11 U.S.C. 362(d)&(e) (30 day limit to conclude hearing) and *In re Johnson*, 756 F.2d 738, 740 (9th Cir. 1995) (summary nature of proceedings on whether to grant relief from stay); *In re Veal*, 450 B.R. 897, 914-15 (9th Cir. BAP 2011) (same, requiring only "colorable" basis for standing to seek relief from stay).

Fourth, the "good faith" inquiry is narrowly focused on the filing of the petition. For example, debtors sometimes argue that because they have a genuine desire to retain a roof over their and their family's heads they are acting in good faith, but the question is not the genuineness of that motive. The question is whether the debtor had a sufficient basis to believe that the current bankruptcy case could be *properly* prosecuted notwithstanding the dismissal of one or more earlier bankruptcy cases. In a reorganization case, such as this one, the tentative ruling is that the test of good faith is analogous to a standard test of whether relief from the automatic stay is appropriate: when the petition was filed, did the debtor have a good faith basis to believe that there would be "a reasonable possibility of a successful reorganization within a reasonable time." *United Savings Assn. v. Timbers of Inwood Forest*, 484 U.S. 365, 376 (1988) (interpreting 11 U.S.C. 362(d)(2)) (citation and internal quotation marks omitted), and see 11 U.S.C. 362(d)(3)(A) (similar test in small business cases).

Fifth, a finding of good faith at the inception of the case for the limited purpose of determining whether to continue the automatic stay under 11 U.S.C. 362(c)(3) - for the benefit of both Debtor and creditors - is not necessarily determinative of good faith for any other purposes. See, e.g., 11

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT... Marina Elsa Chavez

Chapter 13

U.S.C. 1129(a)(3), and *In re Abdelgadir*, 455 B.R. 896, 900 (9th Cir. BAP 2011).

(2) The tentative ruling is that this case *presumptively* was not filed in good faith, and that presumption is only rebuttable by *clear and convincing evidence*

The statute provides, in relevant part:

(C) ... a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)

(i) – as to all creditors, if – ...

(II) a previous case ... was dismissed ... after the debtor failed to -- ...

(cc) perform the terms of a plan confirmed by the court; or

(III) there has not been [x] a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case ... or [y] any other reason to conclude that the later case will be concluded – ...

(bb) ... with a confirmed plan that will be fully performed. [11 U.S.C. 362(c)(3)(C) (emphasis added)]

Creditor argues (dkt. 11, pp. 2:3-3:21) that this case is presumptively not filed in good faith under 362(c)(3)(C)(i)(II) and (III) because (A) Debtor's Prior Case was dismissed within the 1-year period prior to filing this case as a result of Debtor's failure to perform the terms of a confirmed plan [362(c)(3)(C)(i)(II)], and (B) Debtor has not presented any evidence establishing a change in Debtor's financial or personal affairs after dismissal of the Prior Case [362(c)(3)(i)(III)].

The tentative ruling is that Creditor is correct. Therefore, the burden is on Debtor to show, by "clear and convincing" evidence, that she has filed this latest bankruptcy in good faith (whether she has done so is the topic of part "(3)" of this tentative ruling – this part "(2)" only addresses the presumptions and burdens of proof).

(3) Debtor has not rebutted that presumption by "clear and convincing"

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT... Marina Elsa Chavez
evidence

Chapter 13

Debtor's declaration states, in relevant part:

Due to the Covid-19 pandemic restrictions and shutdowns I was unable to work during the summer months of 2020 which caused me to fall behind and unable to pay my plan payments. Now that Covid-19 restriction and shutdowns have been significantly lifted, I can now propose a feasible plan and will be able to have secured employment year round. [Dkt. 9, p. 9:15-20]

The tentative ruling is that the evidence in the record does not support any reliable ability to fund Debtor's plan. Put differently, Debtor's plan appears destined to suffer the same fate as in her last several bankruptcy cases.

Debtor's Plan (dkt. 17, p.3) relies on \$1,734.00 monthly payments for 60 months. Theoretically her income and her expenses could fund this amount, but in practice that possibility seems remote.

As for income, Debtor's Bankruptcy Schedule I (dkt. 14, at PDF pp. 19-20) lists \$5,284.75 in gross monthly income from wages (confirmed by pay stubs, dkt. 16), \$831.00 in monthly SSI benefits for Debtor's daughter, and \$1,200.00 in anticipated contributions from unspecified family members. But there is no supporting evidence that family members are willing and able to make such contributions, reliably, for the next five years. Nor is there any evidence of what summer employment Debtor will be able to secure, or how any such employment can be assured of generating an equal amount of monthly income as her employment the rest of the year.

As for expenses, Debtor's Bankruptcy Schedule J (dkt. 14, at PDF pp. 21-22) is extremely spartan - e.g., only \$30.00 per month for medical and dental expenses (line 11), \$75.00 for a "Reserve" (line 21), \$0.00 for internet, cable TV, or entertainment (lines 6c & 13), and \$0.00 for any car installment or lease payments, which presumes no need for the next five years to replace or make any substantial repairs on Debtor's 2011 Nissan with \$95,000 miles (per Bankruptcy Schedules A/B and C, dkt. 14, at PDF pp. 4, 14). In other words, there is essentially no margin for any medical, vehicle, or other typical expenses beyond the extremely tight budget proposed by Debtor.

Accordingly, on the present record, the tentative ruling is that Debtor has not rebutted by "clear and convincing" evidence the various alternative grounds that the statute imposes to presume a lack of good faith in filing this

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT... Marina Elsa Chavez

Chapter 13

case. Put differently, Debtor has been making considerable efforts, for many years, to pay her creditors; but both her past failures to do so and her current projected income and expenses suggest that her current plan is doomed to failure, just like her prior plans.

True, Creditor's ability to recover its claim eventually appears to be protected by an enormous equity cushion (although Debtor has not specifically argued that point). According to Debtor's motion to continue the automatic stay (dkt. 9, p.4) the property is worth \$792,000.00 and the sum of Creditor's lien plus the homeowners association's lien is estimated at only \$375,109.30.

But this Court takes judicial notice that there are real-world harms to any creditor from not receiving the cash flow that they expect to receive on their loan, especially in the circumstances of this case, in which defaults have continued since before Debtor's first bankruptcy petition on 8/12/13 through the present, and she has accumulating estimated prepetition arrears of \$71,719.25 (dkt. 11, p.3:22-23). In other words, the tentative ruling is that it is not enough to establish that Creditor eventually will be paid somehow. To make a good faith use of the bankruptcy system, the tentative ruling is that (as set forth above) Debtor needs to establish, by clear and convincing evidence, a reasonable possibility of a successful reorganization within a reasonable time. The tentative ruling is that Debtor has not done so.

(4) Possibility of a good faith use of the bankruptcy system

Given Debtor's apparent inability reliably to cure arrears and pay Movant over time, it appears that Debtor would have to propose some alternative method of restructuring her finances if she is going to be able to establish, by clear and convincing evidence, that she filed this bankruptcy case with the intent to pursue a reasonable possibility of a successful reorganization within a reasonable time. Debtor is invited to propose any viable alternatives at the hearing.

The only method by which this Court anticipates that Debtor can adequately rebut the presumption of a lack of good faith is if Debtor were to agree to (a) an APO (similar to the APO in her Prior Case) and (b) a deadline to file a motion to authorize the sale or refinance of the subject property (e.g., 120 days from this hearing). Both parties are invited to address whether that is a viable and appropriate alternative (again, without prejudice to proposing any other alternative).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT... Marina Elsa Chavez

Chapter 13

(5) Conclusion

The tentative ruling is that there is a presumption that Debtor has not filed this case in good faith; that the burden is on Debtor to rebut this presumption by clear and convincing evidence; and that Debtor has not met that burden on the present record. But the parties are invited to address whether any alternative uses of the bankruptcy system would establish, by clear and convincing evidence, Debtor's good faith in commencing this latest bankruptcy case.

If this Court is persuaded to grant the Motion, the tentative ruling is that this Court will prepare the order, and it will include the following standard provisions.

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

(3) Very limited ruling. This Court's tentative ruling to grant the foregoing relief is solely for purposes of this motion, and is not intended to have any binding effect with respect to any future assertions by any party in interest regarding the existence or lack of existence of good faith in any other context.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT... Marina Elsa Chavez

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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| Party Information |
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Debtor(s):

Marina Elsa Chavez

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

2:21-16805 Tri Van Nguyen and Tuyen Thanh Chau

Chapter 13

#16.00 Hrg re: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real and Persoanl Property

Docket 12

Tentative Ruling:

Appearances required (either in person or via ZoomGov) by at least one of Debtors, and by Debtors's Counsel.

There is no tentative ruling, but Debtors are directed to make an offer of proof to support the Motion, and to address the fact that no declaration(s) in support of the Motion were attached to the Motion, notwithstanding the reference to such declarations in the Motion. See Debtors's Motion for Order Imposing a Stay or Continuing the Automatic Stay (dkt. 12), p. 8, para. 6.

If this Court is persuaded to grant the Motion, the tentative ruling is that this Court will prepare the order, and it will include the following standard provisions.

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT...

Tri Van Nguyen and Tuyen Thanh Chau

Chapter 13

preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

(3) Very limited ruling. This Court's tentative ruling to grant the foregoing relief is solely for purposes of this motion, and is not intended to have any binding effect with respect to any future assertions by any party in interest regarding the existence or lack of existence of good faith in any other context.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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| Party Information |
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Debtor(s):

Tri Van Nguyen

Represented By

Hasmik Jasmine Papian

Joint Debtor(s):

Tuyen Thanh Chau

Represented By

Hasmik Jasmine Papian

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

10:00 AM

CONT... Tri Van Nguyen and Tuyen Thanh Chau

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

2:21-12223 All Star Auto Parts, Inc.

Chapter 7

#1.00 Hrg re: First and Final Application for Compensation and Reimbursement of Expenses by Van Horn Auctions & Appraisals Group, LLC as Auctioneer to Chapter 7 Trustee pursuant to Auction Agreement

Docket 38

Tentative Ruling:

Approve Van Horn Auctions & Appraisal Group, LLC's request for \$8,697.91 in fees (which has been paid already) and \$16,050.00 in expenses, for a total of \$24,747.91 and authorize the Trustee to pay the amount of \$16,050.00 for unpaid costs. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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| Party Information |
|--------------------------|

Debtor(s):

All Star Auto Parts, Inc.

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

CONT... All Star Auto Parts, Inc.

Chapter 7

Kevin Tang

Trustee(s):

Brad D Krasnoff (TR)

Represented By
Eric P Israel

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

2:20-15862 Jose Luis Almendariz

Chapter 13

Adv#: 2:20-01644 McLees v. Almendariz

#2.00 Hrg re: Defendant's Motion to Modify Scheduling Order

Docket 39

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2.10, 9/14/21 at 11:00 a.m.).

| |
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| Party Information |
|--------------------------|

Debtor(s):

Jose Luis Almendariz

Represented By
Glenn Ward Calsada

Defendant(s):

Jose Luis Almendariz

Represented By
Glenn Ward Calsada

Plaintiff(s):

Brian McLees

Represented By
Dawn M Coulson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

2:20-15862 Jose Luis Almendariz
Adv#: 2:20-01644 McLees v. Almendariz

Chapter 13

- #2.10** Cont'd Status Conference re: Complaint for Determination of Non-Dischargeability of Debt Pursuant to 11 U.S.C. Sections 523(a)(2) and (a)(4)
fr. 12/22/20, 03/02/21, 4/6/21, 6/15/21, 8/17/21

Docket 1

Tentative Ruling:

Tentative Ruling for 9/14/21:

Grant the motion to modify the scheduling order, and continue the status conference, as set forth below. Appearances are not required on 9/14/21.

(1) Current issues

(a) Defendant/Debtor's motion to modify scheduling order (adv. dkt. 39, 40), no opposition on file

Grant, and extend the deadline for dispositive motions to be heard through 11/16/21.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1) (B).

(2) Status conference

This Court has reviewed documents and records filed in this adversary proceeding.

(A) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

CONT...

Jose Luis Almendariz

Chapter 13

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 22).

(2) Mediation

On 12/21/20 this Court entered an order assigning the matter to mediation (see adv. dkt. 24).

(3) Deadlines

This adversary proceeding has been pending since 10/6/20.

The deadlines have been memorialized in this Court's scheduling order (adv. dkt. 26), except as modified above, and except for the following (which need no written order).

Joint Status Report: 11/2/21

Continued status conference: 11/16/21 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

| |
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| Party Information |
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Debtor(s):

Jose Luis Almendariz

Represented By
Glenn Ward Calsada

Defendant(s):

Jose Luis Almendariz

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

CONT... Jose Luis Almendariz

Glenn Ward Calsada

Chapter 13

Plaintiff(s):

Brian McLees

Represented By
Dawn M Coulson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

2:18-22904 Sasha Demovsky-Kapustyan

Chapter 13

Adv#: 2:20-01666 Demovsky-Kapustyan v. Vayntrub et al

#3.00 Hrg re: Defendant Los Angeles Farmers, Inc.'s motion to set aside default under LBR 7055 and 9024, FED. R. Civ.P.55(c) and 60(b)

Docket 42

Tentative Ruling:

Tentative Ruling for 9/14/21:

Please see the tentative ruling for the status conference (Calendar No. 5, 9/14/21 at 11:00 a.m.).

| |
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| Party Information |
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Debtor(s):

Sasha Demovsky-Kapustyan

Represented By
Richard T Baum

Defendant(s):

David Vayntrub

Represented By
Charles Shamash
Joseph E. Caceres

Irena Vayntrub

Represented By
Charles Shamash
Joseph E. Caceres

Los Angeles Farmers, Inc.

Represented By
Marc Smith

Absolute Herbal Pain Solutions, Inc.

Represented By
Charles Shamash

Plaintiff(s):

Sasha Demovsky-Kapustyan

Represented By
Richard T Baum

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

CONT... Sasha Demovsky-Kapustyan

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

2:18-22904 Sasha Demovsky-Kapustyan

Chapter 13

Adv#: 2:20-01666 Demovsky-Kapustyan v. Vayntrub et al

#4.00 Cont'd hrg re: Motion for Default Judgment
fr. 6/29/21, 8/17/21

Docket 28

Tentative Ruling:

Tentative Ruling for 9/14/21:

Please see the tentative ruling for the status conference (Calendar No. 5, 9/14/21 at 11:00 a.m.).

Tentative Ruling for 8/17/21:

Please see the tentative ruling for the status conference (Calendar No. 9, 8/17/21 at 11:00 a.m.).

Tentative Ruling for 6/29/21:

Appearances required. The tentative ruling is to continue this hearing to **8/17/21 at 11:00 a.m.** and meanwhile (1) set a **deadline of 7/9/21** for the parties to lodge proposed order(s) on the Local Form directing them to mandatory mediation, (2) set a **deadline of 7/23/21** for defendant Los Angeles Farmers, Inc. ("Defendant"), if the parties have not resolved their differences by then, to file and serve a motion to vacate the default, to be heard at the continued hearing. (Presumably such a motion for relief from default would be substantially identical in substance to the opposition papers, but it would be properly filed and served as a separate motion, although Defendant is free to file and serve any other form of such a motion.) All of the foregoing is subject to the parties lodging any stipulated order for further continuances, in view of the relatively short time to arrange for and complete mediation before the deadline to file and serve any motion for relief from default.

Key documents reviewed (in addition to motion papers): Defendant's belated opposition (dkt. 30). As of the preparation of this tentative ruling no reply is on file.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

CONT... Sasha Demovsky-Kapustyan

Chapter 13

Analysis

Defendant's opposition to entry of a default judgment requests that this Court set aside entry of default (see dkt. 30). The tentative ruling is that, on the one hand, this request for relief is procedurally improper and must be brought via a separate motion, and the opposition has been filed very late; but, on the other hand, a continuance appears to be appropriate based on the allegations in the opposition, including that Defendant never received the funds at issue (which, apparently, were paid to the Vayntrubs instead); Defendant is no longer associated with the Vayntrubs; and the other reasons set forth in the opposition papers. See *Horton v. Sierra Conservation Ctr.* 2010 U.S. Dist. LEXIS 18241, at *2, 2010 WL 743849, at *1 (E.D. Cal. Mar. 2010) ("[e]ntry of default against a defendant cuts off that defendant's right to appear in the action or to present evidence" unless or until the entry of default has been set aside) (citing *Clifton v. Tomb*, 21 F.2d 893, 897 (4th Cir. 1927)).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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| Party Information |
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Debtor(s):

Sasha Demovsky-Kapustyan

Represented By
Richard T Baum

Defendant(s):

David Vayntrub

Represented By
Charles Shamash

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

CONT... Sasha Demovsky-Kapustyan

Chapter 13

Joseph E. Caceres

Irena Vayntrub

Represented By
Charles Shamash
Joseph E. Caceres

Absolute Herbal Pain Solutions, Inc.

Represented By
Charles Shamash

Los Angeles Farmers, Inc.

Pro Se

Plaintiff(s):

Sasha Demovsky-Kapustyan

Represented By
Richard T Baum

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

2:18-22904 Sasha Demovsky-Kapustyan

Chapter 13

Adv#: 2:20-01666 Demovsky-Kapustyan v. Vayntrub et al

#5.00 Cont'd Status Conference re: Complaint for Turnover
of Property of the Estate, Unjust Enrichment
fr. 1/26/21, 3/2/21, 5/11/21, 07/20/21, 8/17/21

Docket 1

Tentative Ruling:

Tentative Ruling for 9/14/21:

Deny the Reconsideration Motion of LA Farmers; grant the Plaintiff/Debtor's motion for a default judgment; and continue the Status Conference, all as set forth below (with capitalized terms defined as set forth below). Appearances are not required on 9/14/21.

(A) Current issues

(1) Motion of Defendant/Los Angeles Farmers, Inc. ("LA Farmers") to set aside entry of default ("Reconsideration Motion," adv. dkt. 42), Plaintiff/Debtor's opposition (adv. dkt. 45, 46), David Lally Decl. (adv. dkt. 47), LA Farmers' reply (adv. dkt. 48)

Deny. First, LA Farmers cannot have it both ways: it asserts that Mr. Lally was not authorized to represent it in filing any proof of claim on its behalf, but then it asserts "excusable" neglect in purportedly believing that Mr. Lally "would continue to represent [LA Farmers'] interests." Reconsideration Motion (dkt. 42), p.i:13-25. If, in fact, Mr. Lally had acted without any authorization, then any subsequent purported reliance on him to represent LA Farmers is, on its face, not reasonable or excusable.

LA Farmers has not offered any documentary evidence to overcome this defect. For example, it offers no copies of any communications with Mr. Lally confirming LA Farmers' purported belief that Mr. Lally would in fact represent it. See Opp. (dkt. 46), pp.5:19-7:2 and p.9:3-9:20; Lally Decl. (dkt. 47) (*passim*).

Instead, LA Farmers offers the declaration of its current counsel that his "understanding" through oral communications with counsel for the Vayntrubs (Mr. Treyzon) was that LA Farmers was "already represented" by Mr. Lally. Hodge Decl. (dkt. 42), p.11:18-21. That is insufficient to establish

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

CONT... Sasha Demovsky-Kapustyan

Chapter 13

that any reliance on Mr. Lally to represent LA Farmers was "excusable" neglect.

Second, and alternatively, the tentative ruling is that LA Farmers showed a lack of excusable neglect by failing to respond once Debtor communicated directly with it (through its agent for service of process, *without* going through Mr. Lally) to recover the funds that had been distributed on the disallowed claim. LA Farmers does not deny receiving and failing to take action, until the last minute, in response to informal communications, a summons and complaint, follow-up communications, and papers filed and served in this Court seeking a default and a default judgment. See Opp. (dkt. 46), pp. 7:3-9:20; Baum Decl. (dkt. 46), pp.14-18, and Ex.1-8.

Third, and alternatively, even if this Court were persuaded that LA Farmers had shown justifications for its neglect that would otherwise be "excusable," no relief would be appropriate due to "prejudice to the debtor" and the bankruptcy estate arising from the acts and omissions of LA Farmers. See Opp. (dkt. 46), p. 5:5 (citing *Pioneer Inv. Svcs. v. Brunswick Assoc's, LP*, 507 U.S. 380 (1993)). Those acts and omissions have imposed substantial costs on Debtor and the bankruptcy estate, especially in view of the relatively modest dollar amounts at issue, relative to the attorney fees, costs, and other expenses caused by LA Farmers.

For each of the foregoing alternative reasons, the tentative ruling is to deny the Reconsideration Motion.

Notes: First, this Court expresses no view on the other alternative arguments asserted by Plaintiff/Debtor: that LA Farmers has not shown any meritorious defense; that Mr. Treyzon and Mr. Lally must be determined to have been agents of LA Farmers; and that, if LA Farmers' allegations were to be believed, that would only mean that its purported ignorance of its potential and actual liability are due to its' current owners own lack of due diligence. Opp. (dkt.46), pp.9:22-12:7. The tentative ruling is that, although those assertions might be correct, they involve issues of fact raised by LA Farmers, and those factual issues are sufficiently colorable that this Court would have to conduct an evidentiary hearing to address them.

Second, this Court expresses no views regarding any claims that LA Farmers might or might not have against the Vayntrubs or anyone else, or whether those claims would or would not be barred by a default judgment in this adversary proceeding. The tentative ruling is that those issues are not before this Court.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

CONT...

Sasha Demovsky-Kapustyan

Chapter 13

Third, this Court recognizes that LA Farmers may have been exhausted and frustrated by (i) the litigation in State Court and this Bankruptcy Court, including years to obtain a settlement and then a judgment for \$154,968.00 against Debtor, only to be followed by (ii) another lawsuit (alleging events after the earlier case had settled), (iii) a successful motion by Debtor to vacate the earlier judgment based on the illegality (at least under Federal law) of the parties' medical marijuana business (see dkt. 28, Ex.4, at PDF pp.25-26), and now (iv) this adversary proceeding to recover the \$39,069.00 that was paid on account of the \$154,968.00 judgment. This Court also recognizes that, according to the current owners of LA Farmers, it never received any of the proceeds, which instead allegedly went to the former owners of the corporation, the Vayntrubs.

All of those things no doubt are very frustrating from LA Farmers' point of view (although this Court expresses no view on the truth of any underlying factual allegations or the merits of any legal issues). None of that changes the fact that LA Farmers neglected to do anything in response to this adversary proceeding, and its attempt to shift the blame to Mr. Lally does not amount to "excusable" neglect in view of the lack of evidence that Mr. Lally was representing LA Farmers and the abundant evidence that LA Farmers itself failed to respond to numerous formal and informal communications and court papers.

Proposed order: Plaintiff/Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Motion of Plaintiff/Debtor for default judgment against Los Angeles Farmers, Inc. (adv. dkt. 28), LA Farmer's opposition (adv. dkt. 30)

The tentative ruling is to grant the motion for a default judgment, and overrule the opposition, for the reasons stated above.

Proposed order: Plaintiff/Debtor is directed to lodge (x) a proposed order granting the motion and (y) a proposed judgment via LOU within 7 days after the hearing date, and incorporate by reference the reasons set forth in this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

CONT... Sasha Demovsky-Kapustyan

Chapter 13

(3) Continued proceedings against the Vayntrubs

At the continued status conference in this adversary proceeding (see part "(B)(3)" below) the parties should be prepared to address whether this Court should set discovery and other related deadlines at this time with respect to Plaintiff/Debtor's claims against the Vayntrubs in view of the Mediator's certificate reflecting that the parties did not settle this dispute in mediation. See adv. dkt. 39.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (see adv. dkt. 10 & 25, and at the hearing on 1/26/21).

(2) Mediation. [Intentionally omitted].

(3) Deadlines

This adversary proceeding has been pending since 11/16/20.

Joinder of parties/amendment of pleadings-deadline: N/A

Discovery cutoff (for completion of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: No status report required

Continued status conference: 10/26/21 at 11:00 a.m., to address any post-judgment issues with respect to LA Farmers and the status of Plaintiff/Debtor's claims against the Vayntrubs.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: N/A

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

CONT... **Sasha Demovsky-Kapustyan**
Trial commencement: N/A

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

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| Party Information |
|--------------------------|

Debtor(s):

Sasha Demovsky-Kapustyan

Represented By
Richard T Baum

Defendant(s):

David Vayntrub

Represented By
Charles Shamash
Joseph E. Caceres

Irena Vayntrub

Represented By
Charles Shamash
Joseph E. Caceres

Absolute Herbal Pain Solutions, Inc.

Represented By
Charles Shamash

Plaintiff(s):

Sasha Demovsky-Kapustyan

Represented By
Richard T Baum

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

CONT... Sasha Demovsky-Kapustyan

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

2:21-10360 Maureen C. Redmond

Chapter 7

#6.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 6/15/21, 7/20/21, 8/17/21

NATIONSTAR MORTGAGE LLC
vs
DEBTOR

Docket 31

Tentative Ruling:

Tentative Ruling for 9/14/21:

Continue to be concurrent with the continued hearing on Debtor's lien avoidance motion. See calendar no. 7 (9/14/21 at 11:00 a.m.). Appearances are not required on 9/14/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 7/20/21:

Appearances are not required on 7/20/21.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

CONT... Maureen C. Redmond

Chapter 7

(1) Background

At the hearing on 6/15/21 this Court was persuaded to continue this matter based on the (untimely) oppositions filed by the Chapter 7 Trustee and Debtor. See dkt. 36, 37. This Court set deadlines for supplemental papers, which this Court has now reviewed. See dkt. 53, 54.

(2) Continuance, or order

The tentative ruling is to continue this matter to 8/17/21 at 11:00 a.m., concurrent with Debtor's motion to avoid lien (dkt. 39), provided that Movant is prepared to waive the requirements of 11 U.S.C. 362(e)(1). Movant is directed to file and serve notice of the continued hearing and a proof of service within 7 days after the hearing date.

In the alternative, the tentative ruling is that if Movant is not prepared to waive the requirements of 11 U.S.C. 362(e)(1), Movant may lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of the tentative ruling set forth below, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing:

(a) Deny relief under 11 U.S.C. 362(d)(1)

The tentative ruling is to deny the relief requested under 11 U.S.C. 362(d)(1) because on this record this Court is prepared to find that Movant is adequately protected by a significant equity cushion.

(b) Deny relief under 11 U.S.C. 362(d)(2) and/or grant limited relief

The tentative ruling is to deny the relief requested under 11 U.S.C. 362(d)(2) on the grounds that although this is a chapter 7 case and the Property is not necessary for an effective reorganization (11 U.S.C. 362(d)(2)(B)), Movant has not established that Debtor lacks any equity in the Property (11 U.S.C. 362(d)(2)(A) and (g)(1)) because Debtor has filed a motion under 11 U.S.C. 522(f) and might be able to establish that she can avoid Sulphur Mountain's lien which would free up equity in the Property.

In the alternative, the tentative ruling is that even if this Court were to find that Movant has carried its burden of proof under 11 U.S.C. 362(d)(2), section 362(d) provides that this Court "shall" grant some form of relief, but this Court has discretion as to what form of relief to grant and the tentative ruling is to grant limited relief under 11 U.S.C. 362(d)(2)(A) to require the Trustee and/or Debtor, as appropriate, to prosecute this case so as to figure out who holds what interests in the Property and then arrange either to pay

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

CONT...

Maureen C. Redmond

Chapter 7

those interests through a section 363 sale or pursue other available relief to administer the Property and assure that Movant (and other creditors) are paid. Based on the filed documents and records before this Court, all of that is happening, so the tentative ruling is that, even if relief "shall" be granted under 11 U.S.C. 362(d)(2), no further relief is warranted at this time.

Note: Nothing in the foregoing tentative ruling shall be interpreted as a ruling regarding whether Debtor is required to obtain any authorization from this Court or consent from the Chapter 7 Trustee to list the subject Property for sale, or any other acts. This Court expresses no opinion on any such issues.

(3) Conclusion

If Movant is prepared to waive the time limit in section 362(e), the tentative ruling is to continue this matter as set forth above. If Movant serves a notice of continuance, that will be deemed a voluntary waiver.

Alternatively, the tentative ruling is (a) to deny the motion for relief from the automatic stay (without prejudice) or, alternatively, to the extent any relief is warranted, (b) rule that relief has already been accorded Movant in the form of progressing toward payment of Movant (and other creditors). No further relief is warranted at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

CONT... Maureen C. Redmond

Chapter 7

Tentative Ruling for 6/15/21:
Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

CONT... Maureen C. Redmond

Chapter 7

Debtor(s):

Maureen C. Redmond

Represented By
Raymond H. Aver

Movant(s):

Nationstar Mortgage LLC

Represented By
Cassandra J Richey

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

2:21-10360 Maureen C. Redmond

Chapter 7

#7.00 Cont'd hrg re: Motion to Avoid Lien Property Lien
with Sulphur Mountain Land And Livestock Co., LLC
fr. 07/06/21, 07/20/21, 08/17/21

Docket 39

Tentative Ruling:

Grant in part and deny in part, as set forth below, and continue to 10/12/21 at 11:00 a.m., with additional briefing deadlines as set forth in Section (2) below.
Appearances are not required on 9/14/21.

The tentative ruling is that this Court will issue interim orders adopting the following tentative rulings after the hearing date.

(1) Motion to avoid judicial lien (dkt. 39, "522(f) Motion"), Declaration of Jeffrey S. Zumbo (dkt. 40), Opposition of Sulphur Mt. (dkt. 51), Declaration of Richard Miyamoto (dkt. 52), Response of Lori Haynes (dkt. 55), Assignment to mediation (dkt. 65, 66), Debtor's reply (dkt. 75), request for judicial notice (dkt. 76) and evidentiary objections (dkt. 77)

(a) Preliminary issues

(i) Motion to strike (dkt. 60) response of Lori Haynes (dkt. 55) filed by Sulphur Mountain Land and Livestock Co., LLC ("Sulphur Mt."), Miyamoto Declaration (dkt. 61), Opposition (dkt. 64), Reply (dkt. 70)

Sulphur Mt. asserts that Ms. Haynes lacks standing to file a reply because she did not join in the motion. But the Court of Appeals for the Ninth Circuit has pointed out that standing is not necessarily limited to those who previously filed papers. See *In re Point Center Financial, Inc.*, 890 F.3d. 1188 (9th Cir. 2018) (appellant had standing even without having objected during proceedings before bankruptcy court). The tentative ruling is that Ms. Haynes has standing.

Sulphur Mt. argues in the alternative that Ms. Haynes is barred from filing a reply under the Local Bankruptcy Rules. See Motion to Strike (dkt. 60), p. 5:1-18 (citing LBR 9013-1(g)(3)). But this Court has discretion to depart from the local rules (LBR 1001-1(d)); there is a strong policy in the

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

CONT... Maureen C. Redmond

Chapter 7

Ninth Circuit in favor of reaching the merits; and Sulphur Mt. has not established that it has been unduly prejudiced by Ms. Haynes' reply. If Sulphur Mt. believes that it requires additional time to address any new issues raised in Ms. Haynes' reply, it can address those issues at the same time as it files and serves its supplemental brief (see conclusion of this Tentative Ruling, below).

(ii) Mr. Aver's purported conflicts

Sulphur Mt. argues that Mr. Aver has an actual conflict of interest in representing Debtor in this case given that he also holds a lien secured by Debtor's residence. But Sulphur Mt. has not cited any authority establishing grounds to disqualify Mr. Aver from continuing to represent Debtor either in connection with this 522(f) Motion or more generally as Debtor's bankruptcy counsel. Additionally, this Court is not aware of any authority applying the statutory requirements of section 327 to a chapter 7 debtor's attorney. See 11 U.S.C. 327(a) and *In re Parkhurst*, 2002 WL 33939708, at *3; 2002 Bankr. LEXIS 1912, at * 7 (Bankr. D. Idaho Mar. 22, 2002) ("A Chapter 7 debtor's attorney need not be disinterested, nor must the attorney be free from any adverse interest in relation to the bankruptcy estate"). The tentative ruling is to overrule the Sulphur Mt.'s Opposition on this ground.

(iii) The tentative ruling is not to stay this proceeding pending resolution of appeals in unrelated cases

For the reasons stated in Debtor's reply papers (dkt. 75, pp.7:1-10:6), the tentative ruling is that this Court is not persuaded to defer ruling on the merits of this motion pending final resolution of appeals pending in unrelated cases.

(iv) Debtor's Request for Judicial Notice (dkt. 76) and Evidentiary Objections (dkt. 77)

The tentative ruling is to take judicial notice of Debtor's Exhibits 1-6 as matters of public record and defer ruling on Debtor's evidentiary objections until the continued hearing set forth above.

(b) 522(f) calculations

The statute sets forth the appropriate calculations. Section 522(f)(2) (A) provides that a lien shall be considered to impair an exemption to the

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

CONT... Maureen C. Redmond

Chapter 7

extent that the sum of—

- (i) the lien;
- (ii) all other liens on the property; and
- (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens. [11 U.S.C. 522(f)(2)(A)(i)-(iii)].

(c) The fair market value and lien amounts are not in dispute

Sulphur Mt. has not challenged Debtor's valuation of the subject property, or the dollar amounts of each lien, so for purposes of this motion, the tentative ruling is to adopt the figures set forth in Debtor's motion papers. See dkt. 39, p. 4:16-17, 6:9-11 & dkt. 40.

(d) Priority of Sulphur Mt.'s lien

The tentative ruling is that Sulphur Mt. has a second priority lien because of the *res judicata* effect of prior litigation. The tentative ruling is that Ms. Haynes was in privity with Debtors on that issue, for the reasons stated by Debtor. See Motion to strike (dkt. 60) pp. 5:19-9:23; Reply (dkt. 70) pp. 3:10-4:15.

(e) Avoidance of judicial lien, notwithstanding its seniority over junior consensual lien

The tentative ruling is that even a senior judicial lien can be avoided. See *In re Charnock*, 318 B.R. 720 (9th Cir. BAP 2004) (Plain meaning of 522(f) required avoidance of judicial lien that was senior to a consensual lien). In addition, the tentative ruling is that there is nothing improper, in the abstract, about taking advantage of the ability to avoid a judicial lien under section 522(f).

This Court expresses no opinion whether, in the particular circumstances of this case, there is any exception to that general proposition. See *generally Charnock*, 318 B.R. 720, 726-29 (quoting authority that is "not entirely comfortable" with the equities of literally applying statute; but rejecting arguments that debtor or junior consensual lienholder will receive any windfall, because in circumstances of that case no such windfall was apparent, and in any event court cannot disregard plain meaning of statute)

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

CONT... Maureen C. Redmond

Chapter 7

(citation and internal quotation marks omitted).

(f) Debtor's exemption

(i) Date to determine exemption amount

Sulphur Mt. cites authority that Debtors' exemption should be in the dollar amount that it existed as of the effective date *of the judgment lien*. But the tentative ruling is that the Bankruptcy Code's formula incorporates the exemption amount as of the date *of the bankruptcy petition*.

Specifically, the statutory formula directs this Court to use "the amount of the exemption that the debtor could claim if there were no liens on the property," (11 U.S.C. 522(f)(2)(A)(iii), emphasis added), so it is impossible to tie the exemption amount to any specific lien, such as Sulphur Mt.'s lien. The tentative ruling is that the plain meaning of this statutory directive requires this Court to use the current \$600,000.00 exemption amount, not the \$75,000.00 exemption amount that would be tied to Sulphur Mt.'s lien, and that Congress was free to incorporate the \$600,000.00 exemption amount from California law without simultaneously adopting California's relation-back to the \$75,000.00 amount that would have applied outside of bankruptcy. *See In re Zall*, 2006 WL 6811022, 2006 Bankr. Lexis 4886 (9th Cir. BAP July 21, 2006).

(ii) Surcharge

Sulphur Mt. argues that Debtor has engaged in bad faith. Opp., dkt. 51, pp. 5:1-11:9. It also points out that Debtor's 522(f) Motion "does not cite to any legal authority in support of her argument that [the \$600,000.00] exemption amount will apply." *Id.*, p.22:25-26.

On the other hand, as Debtor points out (Reply, dkt. 75, p.2, n.2), Sulphur Mt. does not cite authority tying Debtor's alleged "bad faith" to surcharging Debtor's asserted exemption, and the Supreme Court has held that no surcharge is authorized by federal law. *See Law v. Siegel*, 571 U.S. 415 (2014) (cited in Debtors' reply, dkt. 75, p.2, n.2). But, as the Supreme Court was careful to point out, when the State exemptions are applied then State law may provide for surcharging the exemption. *See id.*, 571 U.S. at 1196-97.

In addition, it appears that the deadline to object to Debtor's exemptions has not yet passed, for two alternative reasons. First, the docket does not reflect that the meeting of creditors has concluded, and the general deadline is 30 days after the conclusion of that meeting. *See* Rule 4003(b)(1)

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

CONT... Maureen C. Redmond

Chapter 7

(Fed. R. Bankr. P.); Notice (dkt. 63) (continued meeting 8/11/21). Second, any creditor may object to a motion to avoid a lien under section 522(f) by challenging the validity of the exemption. See Rule 4003(d) (Fed. R. Bankr. P.).

In sum, the tentative ruling is that the remaining issue raised by the parties and left for this Court to determine is whether or not to surcharge Debtor's asserted \$600,000.00 exemption. The tentative ruling is that, although the deadline for any objection to that exemption/motion to surcharge has not expired, it is appropriate to set a deadline for Sulphur Mt. to file such papers, and related briefing, so as to resolve this section 522(f) motion.

(2) Conclusion as to issues under section 522(f), and related surcharge/exemption objection/motion

The tentative ruling is to continue this hearing as set forth at the start of this tentative ruling with a **9/21/21 deadline** for Sulphur Mt. to file and serve an objection to/motion to surcharge Debtor's homestead exemption (together with any sur-reply to Ms. Haynes' unauthorized reply in support of Debtor's motion under section 522(f)), a **9/28/21 deadline** for Debtor to file and serve any opposition papers to the surcharge/exemption motion (but not any further papers by Debtor or Ms. Haynes on the section 522(f) issues), and a **10/5/21 deadline** for Sulphur Mt. to file and serve any reply papers on the surcharge/exemption issues.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

CONT... **Maureen C. Redmond** **Chapter 7**
posted tentative rulings). Unless otherwise stated, appearances via CourtCall
are no longer permitted.

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| Party Information |
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Debtor(s):

Maureen C. Redmond

Represented By
Raymond H. Aver

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

11:00 AM

2:21-10360 Maureen C. Redmond

Chapter 7

#8.00 Cont'd hrg re: Judgment Creditor Sulphur Mountain Land and Livestock Co., LLC's Motion to Strike Reply of Lori Haynes to Judgment Creditor Sulphur Mountain Land and Livestock Co., LLC's Opposition to Debtor Maureen C. Redmond's Motion to Avoid Judicial Lien
fr. 08/17/21

Docket 60

Tentative Ruling:

Please see the tentative ruling for the motion to avoid judicial lien (Calendar No. 7, 9/14/21 at 11:00 a.m.).

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| Party Information |
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Debtor(s):

Maureen C. Redmond

Represented By
Raymond H. Aver

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

1:00 PM

2:21-16429 Wasatch Co.

Chapter 11

#1.00 Status conference re: Chapter 11 case

Docket 1

Tentative Ruling:

Appearances required by counsel for Debtor and by Debtor's principal.

(1) Current issues

(a) Insider compensation: wages, pension, etc.

Debtor has filed three notices of insider compensation: \$16,000.00/mo. for Abdul Wahab; \$20,000.00/mo. for Abdul Wahab, Jr.; and \$4,000.00/mo. for Rehanna Wahab. Dkt. 19, 20, 21. The United States Trustee ("UST") has objected due to lack of supporting documentation (e.g., W-2s), undisclosed amounts of benefits such as medical insurance and pension contributions, and the lack of apparent work by Rehanna Wahab to justify the distributions to her. Dkt. 29. Debtor's major creditor, Kaiser Foundation Health Plan, Inc. ("Kaiser"), raises similar objections. Dkt. 32, 33, 35.

The parties are directed to address when these disputes should be set for hearing, and any related procedural issues, such as deadlines for any discovery, briefing, etc.

(b) Liquidation of Kaiser's claim

The parties should be prepared to address how they intend to resolve their disputes. For example, this Court typically orders matters to mediation before a mediator who is familiar with bankruptcy issues, even if the underlying dispute is pending and will be resolved in a non-bankruptcy forum.

In addition, in connection with any non-bankruptcy litigation, Debtor's bankruptcy counsel is directed to inform any other proposed professionals that they must disclose and address potential conflicts if multiple defendants are involved. In addition, Debtor's bankruptcy counsel is directed to inform any other proposed professionals that they have a duty to make a cost/benefit assessment of all work based on whether the likelihood of any net benefit to the bankruptcy estate may be outweighed by the projected expense of obtaining that benefit and the risks of a negative outcome.

(2) Dates/procedures. This Subchapter V case was filed on 8/12/21.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

1:00 PM

CONT...

Wasatch Co.

Chapter 11

- (a) Bar date: 10/21/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 12).
- (b) Procedures order: dkt. 7 (timely served, dkt. 9)
- (c) Plan/Disclosure Statement: file by 11/10/21 (DO NOT SERVE - except on the U.S. Trustee). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").
- (d) Continued status conference: 10/12/21 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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| Party Information |
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Debtor(s):

Wasatch Co.

Represented By
Leslie A Cohen

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

1:00 PM

2:21-15810 Reeves Primary Residence, LLC, a Michigan Limited

Chapter 11

#2.00 Hrg re: Motion For Order Authorizing Debtor To Obtain Postpetition
Loan Secured By Junior Lien Under 11 U.S.C. § 364(c)(3)

Docket 29

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2.20,
9/14/21 at 1:00 p.m.).

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| Party Information |
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Debtor(s):

Reeves Primary Residence, LLC, a

Represented By
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

1:00 PM

2:21-15810 Reeves Primary Residence, LLC, a Michigan Limited

Chapter 11

#2.10 Cont'd hrg re: Motion to Approve Stipulation to Terminate the Automatic Stay as to Secured Creditor Waterfall Bridge Advisors, Inc. and Related Matters
fr. 8/31/21

Docket 35

Tentative Ruling:

Tentative Ruling for 9/14/21:

Please see the tentative ruling for the status conference (Calendar No. 2.20, 9/14/21 at 1:00 p.m.).

Tentative Ruling for 8/31/21:

Please see the tentative ruling for the status conference (Calendar No. 3, 8/31/21 at 1:00 p.m.).

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| Party Information |
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Debtor(s):

Reeves Primary Residence, LLC, a

Represented By
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

1:00 PM

2:21-15810 Reeves Primary Residence, LLC, a Michigan Limited

Chapter 11

#2.20 Cont'd Status Conference re: Chapter 11 Case
fr. 8/31/21

Docket 1

Tentative Ruling:

Tentative Ruling for 9/14/21:

Grant relief and continue the Status Conference as set forth below, with a **deadline of 9/21/21** to file a declaration and/or lodge a proposed order on the bar date issue described below. Appearances are not required on 9/14/21.

(1) Current issues

(a) DIP financing motion (dkt. 29, 30, 31), no opposition on file
The tentative ruling is to grant the DIP financing motion on a final basis.

(b) Motion to approve stipulation to terminate the automatic stay (dkt. 35, the "R/S Motion") filed by Waterfall Bridge Advisors, Inc. ("Movant"), Application for hearing on shortened time (dkt. 36), Order shortening time (dkt. 37, "OST"), notice of hearing (dkt. 39) and declaration of service (dkt. 41), no opposition on file

The tentative ruling is to grant the R/S Motion.

Proposed orders: Debtor is directed to lodge proposed on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(c) No evidence of service of bar date order

This Court's "Order Setting Bar Date" directed Debtor to serve a copy of the order by 9/7/21 and file a proof of service. Dkt. 46, p.1:22-23. As of the preparation of this tentative ruling Debtor has not filed a proof of service demonstrating that it served the order by that date.

The tentative ruling is to set the deadline provided at the start of this tentative ruling either either (i) for Debtor to file a declaration confirming that service was made no later than 9/7/21 (as directed in the Order Setting Bar

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

1:00 PM

CONT...

Reeves Primary Residence, LLC, a Michigan Limited

Chapter 11

Date) or, alternatively, (ii) for Debtor to lodge a proposed amended order setting a new bar date approximately three weeks later than the original bar date (to allow time for processing the order, and for Debtor to serve it on creditors), or, alternatively, (iii) for Debtor to file and serve on the U.S. Trustee a declaration and/or motion and proposed order vacating the Order Setting Bar Date (e.g., if Debtor anticipates seeking dismissal of this case, and believes that any such dismissal would moot the need for any bar date).

(2) Dates/procedures. This case was filed on 7/19/21.

- (a) Bar date: 12/9/21 (dkt. 46, *no proof of service on file*)
- (b) Procedures order: dkt. 4 (timely served, dkt. 10)
- (c) Plan/Disclosure Statement: TBD
- (d) Continued status conference: 10/26/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULING OMITTED]

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| Party Information |
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

1:00 PM

CONT... Reeves Primary Residence, LLC, a Michigan Limited

Chapter 11

Debtor(s):

Reeves Primary Residence, LLC, a

Represented By
Victor A Sahn

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

1:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#3.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/31/21, 4/27/21, 5/11/21, 6/15/21, 6/29/21,
7/6/21, 07/20/21, 07/22/21, 8/17/21

Docket 1

***** VACATED *** REASON: Cont. to 9/22/21 @ 1:00 p.m.**

Tentative Ruling:

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| Party Information |
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Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

1:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

Adv#: 2:21-01084 Law Offices of Brian D. Witzer, Inc. v. Pravati Credit Fund III, LLP

#4.00 Cont'd Status Conference re: Complaint for (1) Injunctive Relief (11 U.S.C. Section 105(a)); (2) For Violation of the Automatic Stay (11 U.S.C. Section 362(a)); (3) Avoidance of Preference [11 U.S.C. Section 547]; (4) Recovery of Avoided Transfer [11 U.S.C. Section 550(a)]; and (5) Automatic Preservation of Avoided Transfer [11 U.S.C. Section 551] fr. 7/6/21, 8/17/21

Docket 2

***** VACATED *** REASON: Cont. to 9/22/21 @ 1:00 p.m.**

Tentative Ruling:

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| Party Information |
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Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

Defendant(s):

Pravati Credit Fund III, LLP

Pro Se

Plaintiff(s):

Law Offices of Brian D. Witzer, Inc.

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

1:00 PM

2:20-12531 Custom Fabrications International, LLC

Chapter 11

#5.00 Cont'd Status Conference re: Post Confirmation
fr. 3/17/20, 03/31/20, 5/12/20, 6/16/20, 7/14/20,
9/1/20, 10/27/20, 11/10/20, 12/8/20, 03/02/21,
6/1/21, 9/7/21

Docket 1

Tentative Ruling:

Tentative Ruling for 9/14/21:

Continue to 12/14/21 at 1:00 p.m., *brief* status report due 11/30/21, all subject to being mooted if a final decree/order closing the case is issued before that time. Appearances are not required on 9/14/21.

(1) Current issues

This Court has reviewed Debtor's status report (dkt. 108) and has no issues to address *sua sponte* at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

1:00 PM

CONT... Custom Fabrications International, LLC

Chapter 11

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| Party Information |
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Debtor(s):

Custom Fabrications International,

Represented By
Kevin Tang

Trustee(s):

Andrew W. Levin (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

1:00 PM

2:19-23303 Candelario Lora

Chapter 11

#6.00 Cont'd Status Conference re: Post Confirmation
fr. 12/17/19, 1/14/20, 02/18/20, 03/31/20, 4/21/20,
5/5/20, 6/30/20, 7/28/20, 9/1/20, 9/15/20, 9/29/20,
11/12/20, 1/5/21, 3/2/21, 6/1/21, 9/7/21

Docket 1

Tentative Ruling:

Tentative Ruling for 9/14/21:

Continue to 12/14/21 at 1:00 p.m., *brief* status report due 11/30/21, all subject to being mooted if an order closing the case on an interim basis is issued before that time. Appearances are not required on 9/14/21.

(1) Current issues

This Court has reviewed Debtor's status report (dkt. 239) and has no issues to raise *sua sponte*.

(2) Deadlines/dates

This case was filed on 11/11/19, and Debtors' plan was confirmed on 11/20/20 (dkt. 218).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

1:00 PM

CONT... **Candelario Lora** **Chapter 11**
posted tentative rulings). Unless otherwise stated, appearances via CourtCall
are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

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| Party Information |
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Debtor(s):

Candelario Lora

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

2:00 PM

2:18-24302 GL Master Inc

Chapter 7

#1.00 Cont'd Order directing Thomas J. Polis, Esq. to show cause why this court should not impose sanctions against him fr. 8/31/21

Docket 337

Tentative Ruling:

Appearances required.

Please see the tentative ruling for the continued hearing on the Order to Show Cause re sanctions against (i) Debtor, (ii) Freda Wang, (iii) Thomas Polis, (iv) Lynn Chao, (v) The Law Offices of Lynn Chao (the "OSC," calendar no. 2, 9/14/21 at 2:00 p.m.).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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| Party Information |
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Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

2:00 PM

CONT... GL Master Inc

Chapter 7

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

2:00 PM

2:18-24302 GL Master Inc

Chapter 7

#2.00 Cont'd Second Cont'd Evidentiary Hrg re: Order to Show Cause re: Civil Contempt and Directing (i) Debtor, (ii) Freda Wang, (iii) Thomas Polis, (iv) Lynn Chao, (v) The Law Offices of Lynn Chao to Appear and Show Cause Why This Court Should Not Find Them in Contempt and Impose Sanctions fr. 8/19/20, 9/17/20, 11/3/20, 12/1/20, 12/22/20, 1/5/21, 1/26/21, 4/27/21, 5/11/21, 06/01/21, 6/15/21, 7/20/21, 8/3/21

Docket 173

Tentative Ruling:

Tentative Ruling for 9/14/21:

Appearances required by Thomas J. Polis, Esq., Ms. Freda Wang, and Ms. Lynn Chao.

This Court anticipates posting or issuing a written tentative ruling at a later time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

2:00 PM

CONT... GL Master Inc

Chapter 7

[PRIOR TENTATIVE RULINGS OMITTED. See dkt. 253, 289 (sanctions v. Young Young Foods); dkt. 276, 291, 299, 302, 327, 330, 336, 345 (sanctions v. Debtor, ChaoLaw, Ms. Freda Wang, etc.); and dkt. 337 (OSC v. Mr. Polis).]

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| Party Information |
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Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

2:00 PM

2:18-24302 GL Master Inc

Chapter 7

#3.00 Cont'd Order to Show Cause re: Civil Contempt Against
Young Young Food LLC, and For Sanctions
fr. 10/27/20, 12/1/20, 12/22/20, 1/5/21, 1/26/21,
4/27/21, 5/11/21, 6/1/21, 6/15/21, 7/20/21, 8/3/21

Docket 213

Tentative Ruling:

Tentative Ruling for 9/14/21:
Appearances required.

(1) YYF Coercive Sanctions Order (dkt. 289)

The YYF Coercive Sanctions Order provided that YYF "shall be liable for \$500 in daily sanctions for each day after December 1, 2020" that it fails to produce/provide documents and information responsive to the Alleged Employees' discovery requests (dkt. 289, p.2:4-10). That order also provided that YYF "may with notice to all parties seek leave of Court to lift these daily sanctions on the basis of YYF's compliance with this Court's Orders" (*id.*, p.2:11-12).

Based on this Court's calculations, as of the date of this hearing, coercive sanctions have accrued in the amount of **\$143,500.00** (287 days x \$500/day) and there is no evidence that YYF has made a single payment, produced any (or supplemental) discovery, or otherwise sought leave to avoid the accrual of future sanctions.

The parties are directed to address what alternative coercive measures this Court should impose, and whether this Court should set supplemental briefing deadlines for the parties to brief that issue, in view of the Contemnors continuing failure to comply with this Court's orders.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

2:00 PM

CONT... GL Master Inc

Chapter 7

on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 8/3/21:

Appearances required.

(1) YYF Coercive Sanctions Order (dkt. 289)

The YYF Coercive Sanctions Order provided that YYF "shall be liable for \$500 in daily sanctions for each day after December 1, 2020" that it fails to produce/provide documents and information responsive to the Alleged Employees' discovery requests (dkt. 289, p.2:4-10). That order also provided that YYF "may with notice to all parties seek leave of Court to lift these daily sanctions on the basis of YYF's compliance with this Court's Orders" (*id.*, p.2:11-12).

Based on this Court's calculations, as of the date of this hearing, coercive sanctions have accrued in the amount of **\$122,500.00** (245 days x \$500/day) and there is no evidence that YYF has made a single payment, produced any (or supplemental) discovery, or otherwise sought leave to avoid the accrual of future sanctions.

The parties are directed to address what alternative coercive measures this Court should impose, and whether this Court should set supplemental briefing deadlines for the parties to brief that issue, in view of the Contemnors continuing failure to comply with this Court's orders.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

2:00 PM

CONT...

GL Master Inc

Chapter 7

resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED. See dkt. 253, 289 (sanctions v. Young Young Foods) and dkt. 276, 291, 327, 330 (sanctions v. Debtor, ChaoLaw, Ms. Freda Wang, etc.).]

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| Party Information |
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Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

2:00 PM

2:20-14175 Tea Station Investment Inc.

Chapter 11

#4.00 Cont'd hrg re: Debtor's Motion Objecting to Proof of Claims of Baodi Zhou, or in the Alternative, Motion to Estimate Claims fr. 04/27/21, 5/4/21, 6/15/21, 8/31/21

Docket 184

Tentative Ruling:

Tentative Ruling for 9/14/21:

Please see the tentative ruling for the status conference (Calendar No. 5, 9/14/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

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| Party Information |
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Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

Movant(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen
Leslie A Cohen

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

2:00 PM

2:20-14175 Tea Station Investment Inc.

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/28/20, 9/1/20, 9/15/20, 9/29/20, 12/22/20,
1/26/21, 3/9/21, 4/6/21, 04/27/21, 5/4/21, 6/1/21,
6/15/21, 8/3/21, 8/31/21

Docket 15

Tentative Ruling:

Tentative Ruling for 9/14/21:

Continue to 9/28/21 at 2:00 p.m. Appearances are not required on 9/14/21.

[INTERIM TENTATIVE RULINGS (continuances) OMITTED]

Tentative Ruling for 8/3/21:

Appearances required.

(1) Current issues

(a) Debtors' Motion Objecting to Proof of Claims of Baodi Zhou, or in the Alternative, Motion to Estimate Claims (the "Claim Objection," dkt. 184), interim Order (dkt. 226), Debtors' Supplement (dkt. 234-37), Claimant Ms. Baodi Zhou's Brief (dkt. 245), Debtors' Reply (dkt. 256-59), Order Assigning Matter to Mediation (dkt. 268), Mediator's report (no settlement) (dkt. 275)

The tentative ruling is to take this matter under submission for this Court to make whatever interim or final orders are appropriate on the record presented to date, and to set a continued hearing contemporaneous with the continued status conference (see part "(2)(d)" below).

(2) Dates/procedures. This case was filed on 5/4/20 and converted from chapter 7 to chapter 11 on 7/1/20 (dkt.17). The petition was amended to elect Subchapter V on 7/14/20 (dkt.27). On 9/4/20 this Court ordered joint administration with affiliated debtors (dkt.64).

(a) Bar date: (i) Investment 9/9/20 (dkt. 40; timely served, dkt. 43);
Affiliated Debtors 11/10/20.

(b) Procedures order: dkt.18 (timely served, dkt.20) (also timely served in each jointly administered case).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

2:00 PM

CONT...

Tea Station Investment Inc.

Chapter 11

(c) Plan (dkt. 137): hearing TBD.

(d) Continued status conference: 8/31/21 at 1:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 6/15/21:

Appearances required.

(1) Current issues

(a) Debtors' Motion Objecting to Proof of Claims of Baodi Zhou, or in the Alternative, Motion to Estimate Claims (the "Claim Objection," dkt. 184), interim Order (dkt. 226), Debtors' Supplement (dkt. 234-37), Claimant Ms. Baodi Zhou's Brief (dkt. 245), Debtors' Reply (dkt. 256-59)

There is no tentative ruling, but the parties are directed to address the issues raised in their papers, especially the following issues. This Court is particularly concerned whether Ms. Zhou has provided sufficient evidence that her own claims satisfy the commonality and typicality requirements for acting as a class representative, assuming without presently deciding that Rule 23 is applicable. See interim Order, dkt.226, Ex.A, at PDF p.7, part "(1)(c)" and *id.* sub-parts "(iii)" & "(iv)."

As Ms. Zhou recognizes, under Rule 23 her individual claims must

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

2:00 PM

CONT... Tea Station Investment Inc.

Chapter 11

have questions of law and/or fact in common with other putative class members that "predominate" over any questions affecting only individual members. See *generally* Zhou Brief (dkt.245), pp.28:10-29:6. Ms. Zhou asserts that Debtor Tea Station Investment, Inc. ("Debtor") harmed class members by (1) failing to pay for all hours worked or for overtime due to time rounding and time shaving, and failing to provide accurate wage statements due to such rounding and shaving and purportedly omitting correct employer information, (2) failing to provide compliant meal breaks and pay missed meal break premiums, and (3) failing to provide compliant rest breaks and pay missed rest break period premiums. Zhou Brief (dkt. 245), pp. 10:1–19:2, 21:6–26:13, *and* summary at pp.32:13-34:22. Therefore the issue is whether Ms. Zhou's own claims for those things have sufficient commonality and typicality of other putative class members' claims.

First, Ms. Zhou's brief does not highlight any specific evidence of her own payroll records, and specific instances in which she asserts rounding, time shaving, missed meal breaks, and missed rest breaks. True, she makes general assertions that might suffice for some issues - *e.g.*, at points her papers appear to assert that she *never* had rest breaks - but this Court remains concerned about the lack of greater specificity, such as allegations that although on day X she worked, say, 11 hours and 11 minutes, her paycheck and Debtor's records only reflected 8.0 hours. *But compare, e.g.*, Debtor's Reply (dkt.256), p.7:3-4 (asserting, without citation to any evidence, that "[e]ven Zhou herself admitted at her deposition that she was always allowed to take a break whenever she requested or chose") (emphasis in original).

Second, Ms. Zhou offers few examples of other employees' specific instances of rounding, time shaving, missed meal breaks, and missed rest breaks, and she appears to make presumptions to fill in the gaps. This issue may also bear on the "numerosity" requirement under Rule 23.

If Ms. Zhou can overcome the foregoing issues, and otherwise qualifies as a class representative against Debtor, then this Court envisions a claim estimation process in which this Debtor would present its own rebuttal analysis and/or specific disputes with Ms. Zhou's choice of data and analysis, and the parties would focus their disputes on calculations not unlike those presented by Ms. Zhou at the end of her brief - *e.g.*, estimating 88 employees, with 1,671 days multiplied by an estimated 11 minutes and 15 seconds per day, to arrive at a claim of \$36,879.48 for "time rounding," etc.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

2:00 PM

CONT... Tea Station Investment Inc.

Chapter 11

See Zhou Brief (dkt.245), pp.33:5-34:22. Each party would be able to present its own data, methodology, and analysis, and challenge the other party's data, methodology, and analysis, in a trial to determine how to estimate the claims.

This Court recognizes that the underlying data, methodology, and analysis might not be as rigorous as they would be if time and money were no object (the "scorched earth" litigation to which this Court previously has referred). See, e.g., Order (dkt.226), Ex.A, at PDF p.6, part "(1)(b)." For example, Ms. Zhou's statistical evidence was prepared not by a statistician or similar expert but by her own counsel. But the tentative ruling is that, given her counsel's apparent experience, this goes to the weight of the evidence, not its admissibility.

Similarly, although Ms. Zhou complains that the "thousands of pages of time and pay records" produced by Debtor (Zhou Brief, dkt. 245, p.16:22) are fractured, incomplete, and otherwise difficult to analyze (*id.*, p.32:16 & attached D. Grimes Decl., pp.2:16–4:28, Ex. 2, Ex. 15), there does not appear to be any evidence that Debtor has intentionally caused any spoliation of records. Ms. Zhou's counsel apparently was able to conduct his statistical analysis based on wage statements and other records for 125 employees provided by Debtor (D. Grimes Decl., dkt. 245, p.5:1–5), and presumably Debtor could use the same data to do its own analysis and/or to challenge Ms. Zhou's analysis.

Again, the foregoing claim estimation process would only apply if Ms. Zhou could overcome the commonality and typicality issues noted above, and if she otherwise could qualify as a class representative. In other words, this Court's discussion of the contemplated claim estimation process is only included for completeness, and should not be interpreted as any presumption that Ms. Zhou can assert claims for the class she seeks to represent.

Note: As for any claims by employees of Debtor's affiliates, the tentative ruling is that this issue is premature. Ms. Zhou only briefly asserts a reservation of rights, arguing that "each corporate entity is managed by the same group of three individuals – Tea Station founder Yu-Liang 'Jimmy' Huang, his wife Teresa Pan, and lieutenant Chi-Fu 'Abraham' Kao." Zhou Brief (dkt.245), p.8:11-13. But this Court has issued an order (dkt.226) limiting claims at this stage to Debtor, and the tentative ruling is that unless and until Ms. Zhou can establish claims against Debtor it would be premature to address potential claims against Debtor's affiliates.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 14, 2021

Hearing Room 1545

2:00 PM

CONT...

Tea Station Investment Inc.

Chapter 11

Finally, the parties are directed to address what further deadlines or procedures to establish, if this Court does not issue a final ruling on Debtor's Claim Objection at this hearing. The tentative ruling is that any continued hearing on this Claim Objection would be contemporaneous with the continued Status Conference (see below).

(2) Dates/procedures. This case was filed on 5/4/20 and converted from chapter 7 to chapter 11 on 7/1/20 (dkt.17). The petition was amended to elect Subchapter V on 7/14/20 (dkt.27). On 9/4/20 this Court ordered joint administration with affiliated debtors (dkt.64).

- (a) Bar date: (i) Investment 9/9/20 (dkt. 40; timely served, dkt. 43);
Affiliated Debtors 11/10/20.
- (b) Procedures order: dkt.18 (timely served, dkt.20) (also timely served in each jointly administered case).
- (c) Plan (dkt. 137): hearing TBD.
- (d) Continued status conference: 7/20/21 at 1:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (i.e., page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

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|--------------------------|
| Party Information |
|--------------------------|

Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

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2:00 PM

CONT... Tea Station Investment Inc.

Chapter 11

Movant(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen
Leslie A Cohen

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se